

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JOYCE O. HILL,

Plaintiff,

V.

*LINCOLN PROPERTY COMPANY,
d/b/a Sandalwood Creek Apartments,*

Defendant.

Cause No.

JURY TRIAL DEMANDED

NOTICE OF REMOVAL

COMES NOW Defendant Lincoln Property Company d/b/a Sandalwood Creek Apartments, by and through its attorneys, Sandberg Phoenix & von Gontard P.C., and pursuant to 28 U.S.C. § 1332 and Rule 81(c) of the Federal Rules of Civil Procedure, hereby state as follows:

1. A civil action was commenced on or about March 11, 2010 in the Circuit Court of St. Charles County, State of Missouri, Cause No. 1011-CV-02270 by Plaintiff Joyce O. Hill against Defendant Lincoln Property Company. (See Exhibit “A”, Plaintiff’s Petition for Bodily Injury).
2. Lincoln Property Company was served on or about March 23, 2010, placing it on notice of its right to remove this case to Federal court.
3. Plaintiff seeks damages against this defendant for personal injury and lost wages as a result of a trip and fall which occurred on April 18, 2007. In order to determine the amount in controversy, this defendant has attempted to confer with plaintiff’s counsel to determine that the amount in controversy is in excess of the jurisdictional limit of \$75,000. Despite two voice

mail messages and correspondence dated April 7, 2010, April 12, 2010 and April 21, 2010, counsel for plaintiff has failed to respond to this defendant's request for confirmation of the amount in controversy. (See Exhibits B, C and D attached hereto and incorporated herein by reference). Further, this defendant has requested that the plaintiff execute a Stipulation that the amount in controversy will not exceed \$75,000 in order to avoid removal and provide the parties with confidence concerning the jurisdictional amount in controversy. To date, we have yet to receive any response to our requests for a Stipulation confirming the amount in controversy.

4. Plaintiff is a resident of St. Louis County, State of Missouri.

5. Defendant Lincoln Property Company, d/b/a Sandalwood Creek Apartments, is a Texas company with its principal place of business located in Dallas, Texas.

6. Because complete diversity exists among the Parties and the amount in controversy, exclusive of interests and costs, is believed to exceed \$75,000, based on plaintiff's refusal to confirm the amount in controversy or stipulate that the amount in controversy does not exceed \$75,000, the Court has jurisdiction over this case pursuant to 28 U.S.C. § 1332.

7. Removal is sought pursuant to the provisions of 28 U.S.C. § 1441 noting that the time for notice of removal under 28 U.S.C. § 1446 has not expired.

8. Contemporaneous with filing this Notice of Removal, Defendants have provided notice to Plaintiff and filed a copy of the Notice of Removal with the Clerk of the Circuit Court for the Circuit Court of St. Charles County, State of Missouri, and shall provide this Court with a proof of filing in State Court.

WHEREFORE Defendant Lincoln Property Company d/b/a Sandalwood Creek Apartments respectfully requests that the above-captioned action now pending in the Circuit

Court of St. Charles County, State of Missouri be removed to the United States District Court for the Eastern District of Missouri, Eastern Division.

SANDBERG, PHOENIX & von GONTARD, P.C.

By: /s/ Jonathan T. Barton

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Attorneys for Defendant
Lincoln Property Company

Certificate of Service

I hereby certify that on the 22nd day of April, 2010, I electronically filed the foregoing Notice of Removal with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Leland C. Smith
PO Box 1380
1551 Wall Street, Suite 210
St. Charles, MO 63302
Attorney for Plaintiff

/s/ Jonathan T. Barton